

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED

HARRISBURG, PA

SEP 10 2009

UNITED STATES OF AMERICA :

Ch. No. 09 -

273

v. :

(JUDGE

KEITH M. GETTY,

Caputo

Defendant. :

: (ELECTRONICALLY FILED)

DEPUTY CLERK

Deputy Clerk

INFORMATION

THE UNITED STATES OF AMERICA CHARGES THAT:

INTRODUCTION

At all times material to this Information:

1. Keith M. Getty ("Getty") was a Certified Public Accountant and the owner of Getty Accounting Services, Inc., doing business as Century Small Business Solutions ("CSBS").

CSBS was headquartered in Lemoyne, PA within the Middle District of Pennsylvania.

2. CSBS provided accounting, tax, payroll, and related services to approximately 100 clients, most of which were small to medium-sized local businesses.

3. Among the clients of CSBS were approximately 20 businesses that sponsored employee pension benefit plans for the benefit of their employees, including SARSEP (Salary Reduction Simplified Employee Pension) plans, SIMPLE (Savings Incentive Match Plans for Employees of Small Employers) plans, and SIMPLE IRA plans (collectively, the "Plans"). The Plans were subject to Title I of the Employee Retirement Income Security Act of 1974, as amended, ("ERISA"), 29 U.S.C. § 1001 et seq.

4. Employee-participants contributed to their respective Plans by having funds for this purpose withheld from their regular paychecks.

5. With many of his business clients, including the approximately 20 business clients that sponsored the Plans, Getty arranged for CSBS to have check-writing authority over the client bank account that held payroll withholdings, including withheld employee contributions to a Plan. Under this arrangement, at the end of each client pay period, Getty was required to: a) calculate the proper amount of payroll withholdings, b) cause CSBS to draw a check in this amount,

payable to CSBS, on the client bank account that held payroll withholdings, c) deposit this check in one of two CSBS accounts used to temporarily hold these funds, and d) promptly remit the amounts due to the proper distributees. It was through this process that withheld employee contributions to a Plan were transferred from the employer to the Plan custodian of assets.

6. Getty was not authorized to handle or to use the withheld employee contributions in any manner, or for any purpose, other than to remit them to the proper custodian of assets.

7. From in or about January 2004 through in or about September 2004, Getty caused employee contributions of approximately \$81,182.27, attributable to approximately 20 Plans, to be drawn on the client payroll withholding accounts and deposited to one of the two CSBS temporary holding accounts, pending remittance to the proper Plan custodian of assets.

8. With full knowledge that he was unauthorized to do so, however, Getty failed to remit these employee contributions to the proper Plan custodian of assets, and instead used these

funds in his own business and for other personal, unauthorized purposes, resulting in a total loss of the contributions.

COUNT ONE

9. Between in or about January 2004 through in or about September 2004, in Cumberland County, within the Middle District of Pennsylvania, the defendant,

KEITH M. GETTY,

did knowingly, unlawfully and willfully embezzle, steal, abstract and convert to his own use the moneys, funds, securities, premiums, credits, property and other assets of employee pension benefit plans subject to the provisions of title I of the Employee Retirement Income Security Act of 1974.

All in violation of 18 U.S.C. § 664.


DENNIS C. PFANNENSCHMIDT
UNITED STATES ATTORNEY

9-10-09
DATE